

REMARKS

This amendment responds to the final office action of 24 April 2006 which considered all of pending claims 1-20. This final office action erroneously indicated that claims 1-22 are pending. This is an error since the application was filed with and still contains only claims 1-20. This final office action rejected claims 1-20. The rejection of the claims 1-20 is respectfully traversed. Claims 1-16 and 18-20 have been amended to correct the claim dependencies and to better characterize the structural differences between the claimed invention and the cited art. All of claims 1-20 are resubmitted for further consideration.

Claims 1-10 and 12-20 were rejected under 35 U.S.C. 103 (a) as being unpatentable over US patent application 2003/0157929 Janssen et al. (Janssen) in view of US patent 5,978,684 Cook et al. (Cook). Claim 11 was rejected over the Janssen/Cook combination in further view of patent 6,775,522 to Schornack. The rejection of claims 1-10 and 12-20 as well as the rejection of claim 11 are respectfully traversed.

The rejection of claims 1-10 and 12-20 as well as the rejection of claim 11 is traversed for a number of reasons. The first reason, as subsequently discussed in detail, is that the rejections are improper as failing to meet the requirements that 35 U.S.C. 103 obvious rejections must possess. These requirements are set forth in detail in section 2142 and 2143 of the MPEP. The applicant asserts that it is improper for the examiner to rely upon his proposed combination of prior art references because of the deficiencies of his 35 U.S.C. 103 rejections. The second reason for the traversal of the rejection of claims 1-20 is that the examiner's proposed combination of Janssen, Cook, and Schornack, even if they could be combined, would fail to make obvious the structure recited in applicant's claims.

Traverse of the 35 U.S.C. 103 (a) Rejection of Claims 1-10 and 12-20

Janssen requires cordless phones and other station devices for making and receiving calls over an external cellular network using a cellular telephone as an interface between the external network and a cordless phone. The present invention

discloses a system that enables non-cordless station devices, including non-cordless conventional landline telephones, to make and receive calls over an external cellular network using a cell phone as an interface between the external cellular network and the non-cordless landline telephones. A distinction between the present invention and
5 Janssen is that the present invention permits the use of any type of landline phone to be used; Janssen is limited to the use of cordless phones. This is a meaningful distinction.

Conventional landline phones cannot be used with Jansen. The system of the present invention does not suffer from this Janssen requirement. The present invention permits the use of any type of landline phone including the venerable black phones that
10 are adapted to be connected to a conventional tip and ring conductor pair. Most existing residences are equipped with the conventional non-cordless landline phones. The present invention permits landline phones of existing residences to use an external cellular network for their residential phone service. This is easily achieved by coupling each existing non-cordless landline phone to a simple wireless interface that
15 communicates via a cell phone in the residence with the cellular network. Janssen, by comparison, does not permit a homeowner to use his/her existing landline phones. Janssen requires that the homeowner's existing phone system be discarded and replaced by cordless phones.

Claims 1-16 and 18-20 are revised by this amendment to clarify the distinctions
20 between the claimed invention and the cited references. As amended, the claimed invention is directed to a system that uses a cell phone to establish call connections between a cellular network and a plurality of station devices, such as non-cordless landline phones each of which is individual to a different one of a plurality of wireless interfaces. The wireless interfaces permit the cell phone to communicate with the
25 landline phones.

The amended claims recite that one of the plurality of wireless interfaces is individual to the cell phone and that the remainder of the plurality of wireless interfaces are each individual to different ones of the landline telephones. In accordance with the presently claimed invention, a connection is established between the cell phone and a
30 landline telephone, or station device, by a series path that includes the cell phone, the wireless interface individual to the cell phone, the wireless interface individual to the

landline telephone and to the landline telephone. The system defined by the amended claim permits a new house that does not have installed telephone wiring to be served by a cell phone and landline telephones which establish connections to the cell phone via the wireless interfaces individual to the landline phones. The wireless interfaces
5 individual to the landline phones together with the wireless interface connected to the cell phone permit call connections to be established between the landline phones and the cell phone for extension to the cellular network.

The claimed system is distinguishable from Janssen taken singularly or in combination with Cook. Janssen uses cordless phones to communicate with the
10 centralized cell phone. Cook uses a conventional landline telephone connected to a centralized cell phone. Neither Janssen nor Cook disclose a system having a centralized cell phone that is connected signal-wise to a plurality of remote landline phones by a plurality of wireless interfaces each of which is individual to a different landline phone. Cook uses landline phones that are connected by wiring to his cell
15 phone 34. The Cook reference, taken either by itself or in combination with Janssen, fails to teach or suggest the claimed invention since the landline phones of Cook are not connected by wireless interfaces to cell phone 34 of Cook.

Janssen and Cook, taken either singularly or in combination, do not make obvious the claimed invention. Even if Janssen and Cook could be combined as
20 asserted by the examiner, they would not meet the requirements of the presently claimed invention since the use of the Cook system when combined with Janssen would still require the installation of house wiring to interconnect the telephone 44 and 46 of Cook with the Cook cell phone 34.

The use of applicant's wireless interfaces and non-cordless phones creates a
25 whole new market for applicant's equipment by enabling homeowners to use their present landline phones when practicing applicant's invention rather than being required to discard their present landline phones when practicing the Janssen invention. The distinctions between the two systems are non-trivial and non-obvious and solve the problem created by Janssen.

30 The rejection of claim 11 in view of the combination of Janssen, Cook, and Shornack is traversed. This rejection need not be discussed in detail since claim 11 is

dependent from allowable independent claim 8. This rejection is further traversed since the elements of claim 11 including the wireless interfaces associated with the recited landline telephones are not shown in the prior art including the combination of Janssen/Cook/Shornack.

5

Legal Inadequacy of the 35 U.S.C. 103 (a) Rejections

10 The 35 U.S.C. 103 (a) rejection of claims 1-10 and 12-20 over Janssen and Cook is improper and must be withdrawn since it fails to establish a *prima facie* case of obviousness as required by sections 2142 and 2143 of MPEP. The examiner's rejection contains no evidence supporting a motivation to combine the cited references. The examiner merely asserted that it would be obvious to combine Janssen with Cook to make obvious the claimed invention. The examiner failed to provide evidence indicating why one would be motivated to combine Janssen with Cook.

15 The examiner's rejection amounts to nothing more than unsupported assertions based on impermissible 20/20 hindsight using knowledge gained from a reading of the applicant's application followed by the use of this knowledge against the applicant. An assertion of obviousness requires evidence supporting the establishment of a *prima facie case of obviousness*. An obviousness rejection without such evidence is improper and devoid of merit.

20 The examiner is respectfully referred to sections 2142 and 2143 of the MPEP which describe what is required to establish a *prima facie case of obviousness*. These sections state that the examiner must initially present evidence supporting a *prima facie conclusion of obviousness*. **These sections state that if the examiner does not produce evidence supporting a *prima facie case of obviousness*, the applicant is**
25 **under no obligation to submit evidence of nonobviousness.**

Section 2142 requires that the prior art references must teach or suggest all of the limitations of the rejected claim. Section 2142 further states that in order to support a conclusion that the presently claimed invention is obvious, the references must expressly or impliedly teach or suggest the presently claimed invention. This section of
30 the MPEP also requires that the examiner must present a convincing line of reasoning why the claimed invention would be obvious in view of the teachings of the reference or

combination of references. The examiner's obviousness rejection is improper and should be withdrawn since it fails to meet these requirements.

Section 2143 discusses the evidence required to support a motivation to combine references. This section states that the prior art must suggest the desirability of combining the references to make the presently claimed invention obvious. It states that without evidence of motivation to modify, a rejection based on obviousness is improper. Section 2143 states that the fact that the reference *can be modified is not sufficient to establish a prima facie obviousness*. It further states that *the fact that combining the references may be within the capabilities of one skilled in the art is not, without more, evidence of motivation to combine*.

The examiner is referred to the above-discussed sections of the MPEP together with the case law cited therein for further elaboration on the subject of what is required to establish *prima facie obviousness*. By reading the MPEP, the examiner will be instructed that the mere fact that it might be desirable to combine Cook with Janssen is not sufficient. The elusive ingredient required to support *prima facie obviousness* is evidence of a motivation to combine. Ideally, this evidence of motivation should be found in Janssen or Cook.

An obviousness rejection proposing a combination of references should contain sufficient information so that it is clear as to what the examiner is suggesting and how the references are to be combined. Design level details are not required. However, more is required than the mere assertion that the references could be combined. One could argue that *anything can be combined with anything*. Such an argument would be devoid of intellectual content unless persuasive reasons are presented indicating how and why the proposed combination could be achieved and implemented. Fairness requires that the examiner provide some information as to how and why the references are to be modified to achieve the proposed modification. In other words, the examiner is requested to indicate with particularity and specificity what elements of Cook are to be combined with what elements of Janssen to achieve a resultant structure that allegedly makes obvious the applicant's claims.

If the examiner reapplies the Janssen/Cook combination he is respectfully requested to comply with the requirements of the MPEP and provide evidence of

motivation to modify. In so doing, he is requested to indicate with specificity and particularity where the evidence of motivation to modify is found in Janssen and or Cook.

The examiner's comments supporting his 35 U.S.C. 103(a) rejections of claims 1-10 and 12-20 over Janssen/Cook are set forth in paragraph 4 beginning on page 2 of the office action. The examiner's rejections do not meet the requirements needed to establish a prima facie case of obviousness as required by the MPEP. His rejections appear to be devoid of any attempt to present evidence of *motivation to combine* the Janssen and Cook references. The examiner's comments appear to be nothing more than unsupported assertions that Janssen could be combined with Cook. The examiner's statement is literally correct since one could obviously assert that *anything known to the human race could be combined with anything* else known to the human race. So what? Such a hypothetical statement is meaningless and proves nothing. It most certainly does not meet the requirements of MPEP 2142 regarding the establishment of a prima facie case of obviousness.

In support of his rejection of claim 1 the examiner, characterizes Janssen, asserts that Cook discloses cordless landline station devices; and then sets forth the ritualistic assertion that

"It would've been obvious for one of ordinary skill in art at the time the invention was made to modify Janssen's system to include a non-cordless landline device as taught by Cook for the advantage of supporting access wireline communications devices to the public wireline network via wireless communications (column one lines 11 -- 18)."

The examiner's rejection is to devoid of any evidence of motivation to combine or of the establishment of a prima facie case of obviousness. The examiner's rejection fails to meet the requirements of MPEP 2142 and 2143 regarding the criteria to be used in obviousness rejections. Specifically, no evidence is presented as to why one would be motivated to combine Janssen with Cook. The examiner's statement is pure hindsight.

The rejections of claims 2-10 and 12-20 use the same improper format in formulating obviousness rejections based on the Janssen/Cook combination.

The examiner's terminology in rejecting many of the claims is confusing since he refers to the existence of a second wireless network in Janssen whose cordless phones obviously have an integrated wireless interface. Janssen cordless phones are irrelevant to the presently claimed invention which requires the combination of a plurality of non-cordless landline phones each of which is individual to a different one of a plurality of wireless interfaces. This is not shown by Jansen or by the combination of Jansen and Cook. In so far as Cook can be understood, it would appear that the Cook system contains conventional landline phones connected to a cell phone. It does not appear that the Cook system contains a plurality of conventional non-cordless landline phones each of which is individual to a different one of a plurality of wireless interfaces. In view of the above, it is respectfully submitted that the examiner's rejection of many of the claims such 1-2, 5, 6-8, etc as being met by Janssen is confusing. The examiner's comments are not understood since Janssen does not disclose non-cordless landline phones each individual to a different one of a plurality of wireless interfaces. Each of the examiner's rejections admits that Janssen does not disclose non-cordless phones.

The examiner's use of Cook to form the Janssen/Cook combination is of no value since Cook discloses only conventional landline phones directly connected by wires to a centralized cell phone. In so far as Cook can be understood, it does not appear to disclose a plurality of landline phones each of which is individual to a different one of a plurality of wireless interfaces used to permit the landline phones to communicate with the centralized cell phone.

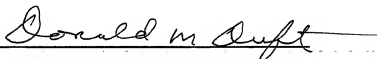
The examiner's comments on page 9 regarding claim 11 are in error and are respectfully traversed. The examiner asserts, in essence, that Cook teaches different wireless devices individual to and integrated into one of the remote landline telephones. Cook does not disclose the structure to which the examiner refers.

It is respectfully submitted that all claims of the application are distinguishable from the cited art.

The Examiner is respectfully requested to call the undersigned if the prosecution of the application can be expedited by so doing.

Respectfully submitted,

Date: 26 Sept 2006

A handwritten signature in cursive script, reading "Donald M. Duft", is written over a horizontal line.

SIGNATURE OF PRACTITIONER

Donald. M. Duft, Reg. No. 17,484

Duft Borsen & Fishman LLP

Telephone: (303) 786-7687

Facsimile: (303) 786-7691

Correspondence address:

Customer Number: 50525